

Comments on the Portsmouth “Indian Head” Rock

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I am prepared to testify that in my opinion and according to definitions in current statutes of the Commonwealth of Kentucky the object in question, informally known as the Portsmouth “Indian Head” Rock does not meet the criteria used to define an “object of antiquity” or “archaeological site” in the so-called KENTUCKY ANTIQUITIES ACT (**KRS 164.705 – KRS 164.735; KRS 164.990**).

In this regard I would also state that none of the carvings on the inscribed rock recently salvaged from the Ohio River are prehistoric or belong to a Kentucky “pioneer period” [a term apparently undefined in Kentucky Statutes] as commonly understood.

I further believe that whatever claims the Commonwealth of Kentucky and/or the Kentucky Heritage Society may assert over this rock in terms of its being an “historical object” are abrogated by decades of neglect and failure even to precisely determine the object’s location, as well as failure to address the preservation of the rock and to inhibit its deterioration. Given this neglect by the Commonwealth and the Council, the removal of the rock from the Ohio River and its preservation should be considered a meritable act of *not-for-profit* salvage rather than theft of an alleged “object of antiquity.”

ARE ANY OF THE CARVINGS PREHISTORIC?

No. The bulk of the carvings consist of names, initials, and dates associated with 19th C. Portsmouth residents. D. Ford, for example, was David Ford, identified in the 1850 Federal census as a skiff master, who undoubtedly had an interest in water levels in this stretch of the Ohio River. C. Molster was Cornelius Molster, in the 1880 Federal census an “engineer,” who would have equal interest in the river level as well as access to the rock. The earliest date preserved on the rock appears to be the Sep28 1856 date attributed to D. Ford. All of the other engraved names and dates are clearly not Native American.

The single exception might be the “smiley face,” which has been erroneously attributed to prehistoric Native American origin (R. Meeks as cited in Biesk 2008). The carving in no way resembles designs of known Native American origin, as testified by the literature (Swauger 1974) and with my own 50 year experience with Ohio Valley rock art. The design clearly was manufactured with a hard metal chisel, width estimated at ½ inch (Coy 2008), evidence in itself that the design postdates prehistory. As noted above, virtually

all of the carvings are names and dates, mostly associated with Portsmouth, Ohio, residents of the latter part of the 19th and early 20th C. There is no reason to infer that the face design is especially older, especially given the clear evidence of its manufacture with a metal chisel or screw driver.

AGE OF THE CARVINGS

As Coy (2008) documents, the earliest reference to the Portsmouth Rock is 1839, as copied from the log kept at the U.S. Hotel in Portsmouth (Murphy 2008). The 1854 Portsmouth newspaper article providing this information simply states that the “water mark” is called the “Indian Head” from its being supposed to have been cut by the Indians “many years ago.” The next earliest reference to a similar low water mark is in the same article, stating that the 1854 water level was the lowest since 1831. The next earliest drought of major proportions in the Ohio River Valley was 1805 (Hildreth 1848). An extremely significant piece of negative evidence is the lack of any mention of the rock in Zadok Cramer’s detailed guides to Ohio River navigation (e.g. Cramer 1817). Had this conspicuous depth indicator and landmark been present, mention of it surely would have been made in Cramer’s detailed guide, which was issued from 1806 to 1824. The most logical conclusion is that the face carving was made sometime between ca. 1825 and 1839.

Dates of the other carvings are range from 1856 to 1894, although some undated names and initials may be later. None are known to date to what may be termed the “Pioneer Period” in Kentucky or Ohio.

IS THE FACE CARVING HISTORIC NATIVE AMERICAN?

It may be asserted that while not prehistoric the face carving might have been carved by a Native American because Native Americans had access to Euro-American metal objects during the “Pioneer Period” and subsequently. Of course Native Americans eagerly adopted European metal “trade goods,” and objects such as copper or brass kettles, ear and finger rings, jews harps, thimbles, scissors, and the ubiquitous “tomahawk” or “trade axe” (Murphy 1996). Might have been! Words worthy of John Greenleaf Whittier but not of an archaeologist or historian espousing the scientific method. We do not pick the hypothesis we like the most but the one that is in accordance with known facts and therefore is the most likely.

No Historic trade goods capable of making the chisel marks constituting the face carving have been found in Ohio Valley Historic Indian components. Searching the archaeological literature of the eastern United States results in finding one solitary occurrence of a metal chisel. In 1937 WPA excavation at the Cowarts Landing (Kasita) Site near Fort Benning, Georgia, uncovered an iron chisel with flared bit associated as a grave offering with an Historic Indian burial. A date estimate of A.D. 1540-1821 was made for the burial (National Park Service 2001). Eight inches long with a 1 ½ inch flared bit, the chisel is nothing like the one that must have been used on the Portsmouth Rock.

There very likely were scattered members or descendants of Native American groups in the Ohio Valley during the first half of the 19th C., but the likelihood that one of them included a cold chisel in his tool kit is exceedingly remote—somewhere between the miniscule and the infinitesimal. On the other hand, both Scioto and Greenup Co. contained abundant outcrops of Mississippian-age sandstone highly suitable for not only building but finely tooled objects such as gravestones. The 1850 federal census, the first to list occupations, enumerates eleven stone masons or stone cutters in Portsmouth and seven in Greenup Co. This would be a decade after the presumed date the face carving was made but is strong evidence that cold chisels were common to abundant in the local Euro-American populace, a much more likely source than a stray Native American's tool kit.

Further, stylistically, the Portsmouth carving is highly unusual for OhioValley Native American carvings. Most remarkable are the protruding ears and presence of a nose (Coy 2008), although both occasionally occur on Pennsylvania rock art sites (Swauger 1974). Taken together, style and method of manufacture indicate a Euro-American origin.

**IS THE ROCK AN “OBJECT OF ANTIQUITY”?
AND
DOES THE ROCK CONSTITUTE AN “ARCHAEOLOGICAL SITE”?**

With good reason, most states eschew using the term “archaeological site” and instead use or approximate the Federal definition of “archaeological resource” as stated in the Archaeological Resources Protection Act (ARPA) of 1979, wherein the term is defined as follows:

(1) the term “**archaeological resource**” means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

Because rock carvings are specifically included and an age limit of 100 years is indicated, the Portsmouth Head would appear to fall under this *federal* definition of “archaeological resource.”

Likewise, according to 36 CFR 79.4, “*Material remains* means artifacts, objects, specimens and other physical evidence that are excavated or removed in connection with efforts to locate, evaluate, document, study, preserve or recover a prehistoric or historic

resource. Classes of material remains (and illustrative examples) that may be in a collection include, but are not limited to:

(vii) Components of petroglyphs, pictographs, intaglios or other works of artistic or symbolic representation..."

The Portsmouth Head clearly would also fall within this definition of "material remains." In short, it can be considered an archaeological resource. But in the Kentucky Antiquities Act, in so far as the Commonwealth of Kentucky has strayed from using such terms it has, in the process and perhaps unintentionally, tended to use less comprehensive yet more vague language. This is particularly significant in the use of the ambiguous and somewhat dated term archaeological "site" rather than the more general archaeological "resource," as well as in substitution of the term "object of antiquity" in place of "material remains" or in place of the term "artifact."

According to the Kentucky Antiquities Act"

"Object of antiquity" means a ruin, monument, relic, bone deposit, artifact or any product of human workmanship of Indians or any aboriginal race or pioneers.

While these Kentucky Statutes do not define "artifact," most reasonable people would admit that the Portsmouth Rock can be considered an artifact. As shown above, however, the preponderance of evidence indicates that it is not a product of the workmanship of Indians; nor does it conform in age to that of the Kentucky "pioneers." Again, the Kentucky Statutes are vague on this score, as they do not define the term "pioneers." Generally, the term may be taken to refer to inhabitants or emigrants prior to admission to the federal union (1793). The Society of Kentucky Pioneers restricts membership to those whose ancestors lived in Kentucky prior to December 31, 1800. In either case, it is concluded that carvings on the Portsmouth Rock are not old enough to be reasonably assigned to the work of "pioneers" and consequently do not fall under the definition of "object of antiquity."

As for "archaeological site," according to the Kentucky Antiquities Act, "Archaeological site" means "any place where articles of value in the scientific study of historic or prehistoric human life and activities may be found, such as mounds, earthworks, forts, mines, burial grounds, graves and village or camp sites of Indians or any aboriginal race or pioneers."

Not being attributable the work of Indians, to "any aboriginal race," or to pioneers, the artifact known as the Portsmouth Head does not qualify as an archaeological site by definition according to Kentucky statutes. From the point of view of the Commonwealth, this use of "archaeological site" in place of "archaeological resource" is indeed unfortunate and is much more than a mere quibble about semantics.

Two further attributes of archaeological “sites” are pertinent to consideration of the Portsmouth Rock—the question of context and the question of whether a single, solitary, isolated artifact may constitute a “site.” Dunnell and Dancey have described the limitations of pursuing archaeology in terms of “sites,” particularly in terms of acquiring and interpreting archaeological data on a regional scale, and reduce the term to a mere “notion” (Dunnell and Dancey 1977: 268). In so far as they accept the “notion” of archaeological site, they emphasize the importance of artifact density and view a “site” as a “cluster” of artifacts,” thereby emphasizing the importance of archaeological context (the relationship of such clustered artifacts to one another). Perhaps we can all agree that “notions” are a poor substitute for comprehensive definitions, at least in legal statutes. Be that as it may, a statute remaining in force remains the law, no matter how poorly written it might be, and this is especially pertinent in terms of the Kentucky statutes.

The concept of “context,” the idea that an association or congeries of various material remains can provide important archaeological information, is inherent in most definitions of “site” and the importance of “archaeological context” cannot be over-emphasized. Because, even before it was salvaged, the Portsmouth Rock was an isolated artifact, albeit of insufficient age to be termed an “object of antiquity,” it lacked any archaeological context—it could not be related to any other artifact or to any other contemporary materials that might provide significant archaeological information. It might be argued that the sedimentary substrate on which the rock rested had the potential for providing information about the carvers, when and perhaps even how the rock reached its location, or other significant information. Perhaps, to take an extreme hypothesis, one of the carvers dropped their instrument and it lies buried in the sediment surrounding the Portsmouth Rock. This hypothetical example only underscores the absurdity of such a figment. Anyone familiar with a river of the size of the Ohio can understand that the original sediment that surrounded the Portsmouth Rock is long gone. Even with the impediment of the damming of the river in the early part of the 20th Century, the scour and fill action of stream currents has completely removed and replaced any sedimentary and archaeological context that originally existed at this spot. It is even uncertain that the Portsmouth Rock remains precisely in its original position. In so far as context is concerned, the Portsmouth Rock is an archaeological site without archaeological context, which is an oxymoron.

Finally, there is the question alluded to in the previous paragraph: can a single, solitary artifact, lacking any contextual relationship to other artifacts in the immediate vicinity constitute an archaeological “site”? The answer to this is a resounding “No.”

IMPACT OF REMOVAL VIS-À-VIS PRESERVATION OF THE CARVINGS

Deterioration of the Rock Underwater

The notion that rock inscriptions along the Ohio River or any other waterway are being preserved by virtue of being continuously underwater is sadly misinformed. Ignoring this fact displays a flagrant disregard for the preservation of these resources.

While not as dramatic as above water deterioration due to freezing and thawing and other mechanisms, underwater deterioration of sandstone is just as relentless. Perhaps the most obvious is scouring and abrasion by water-borne material such as ice and sand (Childs 2001: 114). This is exacerbated by normal stream current as well as factors such as propeller wash from boats and barges. More dramatic possibilities are catastrophic damage to dredging or impact from river (barge) traffic. The striking effect of stream action on destroying rock carvings on the upstream side of a rock is dramatically illustrated by the Barton Petroglyphs (Murphy et al. 2006).

Chemical damage is often more subtle but is certainly a factor in dealing with the polluted waters of the Ohio River. The high iron content of the cement around the sand grains is particularly susceptible to chemical action. The composition of the Portsmouth Rock is far from being a pure silica sand, as feldspar as well as iron minerals and these constituents are readily impacted by both acidic and alkaline water. While the Portsmouth Rock was located in a sufficient depth of water to preclude the dramatic freeze-and-thaw action occurring above the water level, it was still subjected to extremes in temperature that undoubtedly caused expansion and contraction of the constituent sand grains and resultant physical stress and deterioration. Nor was the rock immune to the physical and chemical action of plants, notably algae, and animals. Most notably, examination of the rock reveals an abundance of attached bivalve mollusks, which not only impact the rock by virtue of attachment of the mollusk's byssus but may also significantly impact the appearance of the rock.

These factors have a strongly deleterious impact not only on the physical object itself but, as noted above, any geological or archaeological context that might have originally existed.

Inefficacy of "Benign Neglect" as a Preservation Strategy

"Benign neglect" is defined as a policy or attitude of ignoring a situation instead of assuming responsibility for managing or improving it. Clearly it is the philosophy practiced by the Kentucky Heritage Council and the Army Corps of Engineers in terms of cultural resources submerged in the Ohio River. The term remains an oxymoron, as such neglect is never benign or beneficial, and the present instance serves as an important case in point. Neither the Council nor the Corps, during all the years they have been charged with the protection of such sites or objects managed so much as to precisely locate the Portsmouth Rock or similar rock art, let alone made any effort to preserve such. Despite initial efforts of the Corps to aid Mr. Shaffer in locating the Portsmouth Rock (Maslowski pers. comm.), the efforts of the Corps were fruitless. They and the Council in effect abandoned any effort to locate or preserve the rock.

The successful efforts of Mr. Shaffer and his associates to salvage and preserve the Portsmouth Rock, with no intent or effort to profit therefrom, deserve praise and commendation, especially in the face of the intransigence and ineptness of the agencies charged with its preservation.

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KENTUCKY ANTIQUITIES ACT (KRS 164.705 - KRS 164.735; KRS 164.990)

This is known as the *Kentucky Antiquities Act*, which was created in 1962. It makes it public policy to preserve archaeological sites and objects of antiquity and to limit archaeological work (exploration, excavation, and collection) to qualified persons and institutions. It prohibits the willful damage or destruction of archaeological sites on lands owned or leased by the state, state agencies, counties, or municipalities, and requires a permit from the University of Kentucky's Department of Anthropology to explore or excavate archaeological sites on these lands. It requires anyone who discovers a site to report it to the Department. It is a felony to violate the sections of the *Kentucky Antiquities Act* prohibiting the willful destruction of archaeological sites and requiring permits to excavate.

164.710 Definitions for KRS 164.705 to 164.735.

As used in KRS 164.705 to 164.735, unless the context otherwise requires:

- (1) "Archaeological site" means any place where articles of value in the scientific study of historic or prehistoric human life and activities may be found, such as mounds, earthworks, forts, mines, burial grounds, graves and village or camp sites of Indians or any aboriginal race or pioneers.
- (2) "Object of antiquity" means a ruin, monument, relic, bone deposit, artifact or any product of human workmanship of Indians or any aboriginal race or pioneers. "Department" means the Department of Anthropology of the University of Kentucky.

164.715 Prohibition.

No person shall willfully injure, destroy or deface any archaeological site or object of antiquity situated on lands owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth.

164.720 Permit required to excavate.

- (1) No person shall explore, excavate, appropriate or remove from land owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth, any archaeological site or object of antiquity without first obtaining a permit from the Department of Anthropology upon the recommendation of the agency owning or having control of the land upon which the same is situated.

- (2) If exploration or excavation of archaeological sites and the finding and gathering of objects of antiquity is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly granted.